

April 16, 2008

Mr. Alan D. Risenhoover
Director
Office of Sustainable Fisheries
National Oceanic and Atmospheric Administration
1315 East West Highway
Silver Spring, MD 20910

Subject: EPA's NEPA Review of the NOAA FEIS for the "Final Amendment 2 to the Consolidated Atlantic Highly Migratory Species Fishery Management Plan"; Atlantic Ocean; CEQ #20080146; ERP #NOA-E91019-00

Dear Mr. Risenhoover:

Consistent with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency (EPA) has reviewed the National Oceanic and Atmospheric Administration's (NOAA) Final Environmental Impact Statement (FEIS) for Amendment 2 to the Consolidated Atlantic Highly Migratory Species Fishery Management Plan. EPA has previously provided NEPA comments on the Draft EIS (DEIS) for Amendment 2 in a letter dated September 27, 2007.

We have concentrated our FEIS review on NOAA's responses to public comments on the DEIS and Proposed Rule found in Appendix D. This appendix has bundled public comments by major topics, apparently prompted by receipt of numerous comments. While we do not oppose such a lumping of voluminous comments, the appendix could have been more user-friendly. For example, the commenters for each topic could have been listed, or at least major commenters such as state and federal agencies and larger NGOs. Ideally, comment letters of such agencies and NGOs could have been included to provide the actual language of their comments and concerns. No letters were found in Appendix D or a summary of the number of commenters on the Proposed Rule or DEIS or their major issues (if any) or concurrences (if any). Future NOAA NEPA documents should consider additional disclosure in this regard. In contrast, we appreciate that appendices and main document sections had individual Tables of Contents, which greatly facilitated the review of the FEIS.

EPA's 2007 comment letter did not offer objections to the DEIS. We indicated support of NOAA's Preferred Alternative 4 (*Establish a Research Fishery for Sandbar Sharks; Shark Fishery for Directed, Incidental, HMS Angling, and HMS Charter/Headboat Permit Holders*). Our suggestion for the FEIS was to "...reiterate that

the low harvesting quota proposed for the sandbar shark research fishery will not retard population recovery” and that “[t]his assurance should avoid the perception that the proposed research program is a substitute for hard regulatory decisions...” Although it is clear that Alternative 4 remains NOAA’s preferred alternative in the FEIS, it is unclear from Appendix D (e.g., D.1 on “quotas” and D.11 on the “preferred alternative”) if the requested reiteration was made in the FEIS. NOAA may wish to reiterate this in its Record of Decision and Final Rule. Overall, however, we continue to support Amendment 2, and specifically Alternative 4 with its observer coverage, and defer to NOAA regarding fishery management specifics and implementation.

We appreciate the opportunity to review the FEIS. Should you have questions regarding these comments, feel free to contact Chris Hoberg of my staff at 404/562-9619 or hoberg.chris@epa.gov.

Sincerely,

Heinz J. Mueller, Chief
NEPA Program Office
Office of Policy and Management

cc: Dr. Rodney F. Weiher
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